

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SECURITIES AND EXCHANGE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 03-12154-NMG
	)	
MARTIN J. DRUFFNER,	)	
JUSTIN F. FICKEN,	)	
SKIFTER AJRO,	)	
JOHN S. PEFFER,	)	
MARC J. BILOTTI and	)	
ROBERT E. SHANNON,	)	
	)	
Defendants.	)	

**FINAL JUDGMENT OF PERMANENT INJUNCTION,  
DISGORGEMENT AND OTHER RELIEF  
AS TO DEFENDANT JUSTIN FICKEN**

Plaintiff Securities and Exchange Commission ("Commission") having filed a Complaint on November 4, 2003 and having filed an Amended Complaint on July 14, 2004, the Commission having filed a motion for summary judgment as to defendant Justin F. Ficken, the Court having considered the Commission's motion for summary judgment and all the pleadings and evidence submitted in support thereof; and the Court having determined that summary judgment should enter in favor of the Commission and against Ficken:

**I.**

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Ficken and his agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently

restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. §240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

**II.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Ficken and his agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §77q(a)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or

any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

**III.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Ficken shall pay disgorgement of \$494,975, representing profits gained as a result of the conduct alleged in the Amended Complaint, plus pre-judgment interest in the amount of \$94,879, for a total disgorgement amount of \$589,854. Ficken shall pay this disgorgement obligation within ten (10) days after entry of this Final Judgment.

**IV.**

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that Ficken shall make the payment required pursuant to Paragraph III above by money order, certified check or cashier's check made payable to the Clerk, United States District Court for the District of Massachusetts. The payment shall be mailed to the Clerk of this Court at the John Joseph Moakley U.S. Courthouse, One Courthouse Way, Boston, MA 02210, with a cover letter identifying Ficken, the name and number of this action, and the name of this Court, and copies of the payment and cover letter shall be mailed to counsel of record for the Commission. Upon payment of the disgorgement obligation set forth above, Ficken shall relinquish all legal and equitable right, title and interest in such payments, and no part of the funds shall be returned to him. The Clerk shall deposit the payment into an interest-bearing account with the Court

Registry Investment System ("CRIS"). These funds, together with any interest and income earned thereon (collectively, the "Fund"), shall be held by the CRIS until further order of the Court. In accordance with the guidelines set by the Director of the Administrative Office of the United States Courts, the Clerk is directed, without further order of the Court, to deduct from the income earned on the money in the Fund a fee equal to ten percent of the income earned on the Fund. Such fee shall not exceed that authorized by the Judicial Conference of the United States. The Commission may propose a plan to distribute the Fund subject to the Court's approval.

V.

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that this Court shall retain jurisdiction over Ficken as a party to this matter for all purposes, including the implementation and enforcement of this Final Judgment.

VI.

**IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED** that, the Court finding no just reason for delay, the entry of this Judgment shall constitute a final judgment as to all of the Commission's claims against Ficken in this action, and the Clerk of the Court is directed to enter this Final Judgment forthwith pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

DONE AND ORDERED at Boston, Massachusetts, this 13<sup>th</sup> day of Sept., 2007.

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*Nathaniel M. Gorton*

UNITED STATES DISTRICT JUDGE